

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA**

OKLAHOMA FARM BUREAU MUTAL)	
INSURANCE COMPANY AS SUBROGEE,)	Case No. CIV-22-18-D
OF MICHEL DIEL)	
<i>Plaintiffs,</i>)	Removed from the District Court
)	Garfield County, Oklahoma
v.)	Case No. CJ-2021-254-02
)	
OMEGA FLEX, INC.,)	
)	
Defendant.)	JURY TRIAL DEMANDED

DEFENDANT OMEGA FLEX, INC.'S NOTICE OF REMOVAL

Defendant Omega Flex, Inc. (“Removant”), by and through undersigned counsel, hereby files this notice to remove the above-captioned matter from the District Court, Garfield County, State of Oklahoma to the United States District Court for the Western District of Oklahoma, Enid Division pursuant to 28 U.S.C. §§ 1332(a), 1441(a) and 1446(a), because there is complete diversity of citizenship between the parties and the matter in controversy exceeds \$75,000.00. In support thereof, Removant represents to this Court as follows:

1. The above-captioned matter was commenced in the District Court in Garfield County, State of Oklahoma, by Plaintiffs filing their Petition on or about December 9, 2021. The matter was docketed as Case No. CJ-2021-254-02. Service of Process for the Citation and Petition was made on December 9, 2021 via a Summons dated December 17, 2021. **See Exhibit 1.** Therefore, Removant timely files this Notice of Removal within thirty (30) days from and after the date of the Service of Process upon it in said action, as required by 28 U.S.C. Section 1446(b).

2. Plaintiff Oklahoma Farm Bureau Mutual Insurance Company is the subrogee for Michal Diel, owners of the home at issue located at 6217 North 114th, Enid Oklahoma, 73701.

3. The Petition alleges that on or about July 12, 2020, the Diel home was struck by lightning and a fire erupted causing damage to the home. The Plaintiffs allege an Omega Flex, Inc. product caused the fire. *See* Petition at ¶¶ 10, 11.

4. Complete diversity of citizenship exists between Plaintiff and Omega Flex, Inc.

5. Plaintiff is an Oklahoma not-for-profit corporation with its headquarters at its principal place of business at 2501 N. Stiles Ave., Oklahoma City, Ok. *See* Petition at ¶ 1.

6. Omega Flex, Inc. is the named Defendant, and it was, at the time Plaintiffs' cause of action accrued, and is now, a corporation incorporated in the Commonwealth of Pennsylvania with its principal place of business at 451 Creamery Way, Exton, Pennsylvania 19341. *See* Petition at ¶ 2. The Defendant is not a citizen of the State of Oklahoma.

7. The Plaintiffs' Petition alleges "damages for an amount in excess of \$75,000" which Plaintiff alleges includes adjusted and paid damages sustained to the structure, the contents, and additional living expenses incurred by the Diels. *See* Petition at ¶ 10. Further, the Notice of Loss estimated total damages exceeding \$300,000. *See* Notice of Loss, attached hereto at **Exhibit 2**. Omega Flex therefore reasonably believes that the amount in controversy will exceed the sum or value of \$75,000, exclusive of interests and costs. Therefore, Removant has met its burden of proof that the amount in controversy exceeds the sum of \$75,000, exclusive of interests and costs.

8. Concurrent with the filing of this Notice, Removant is serving this Notice on Plaintiff's counsel and filing a copy of the same with the Clerk of the District Court in Garfield County, State of Oklahoma.

9. The United States District Court for the Western District of Oklahoma embraces the country in which the State Court action was brought. Venue is proper in this district under 28 U.S.C. §1441(a).

10. Removant files herewith a true copy of all process, pleadings, and orders served upon it in such action, same consisting of the Summons, Petition, Notice, and Entry of Appearance as Counsel for Plaintiff (**Exhibit 1**).

11. A copy of the State Court docket sheet is attached as required by Local Rule 81.2(a).
See Exhibit 3.

12. There are no pending motions in the State court action.

13. By filing this notice, Removant does not waive any defenses in Rule 12, Fed. R. Civ. P.

WHEREFORE, Omega Flex, Inc. respectfully requests that the Court remove the above-captioned action now pending against it in the District Court in Garfield County, State of Oklahoma, to the United States District Court for the Western District of Oklahoma, wherein it shall proceed as an action originally commenced therein.

Respectfully submitted this 5th day of January, 2022.

Respectfully submitted,

**GORDON REES
SCULLY MANSUKHANI LLP**

/s/ Calvert R. McMahon

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**ATTORNEYS FOR DEFENDANT,
OMEGA FLEX, INC.**

CERTIFICATE OF SERVICE

I hereby certify that on January 5, 2022, a copy of the foregoing document was filed electronically with the Clerk of the Court using the Court's CM/ECF electronic filing system, which will send an electronic copy of this filing to all counsel of record.

Via Eservice

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/s/ Calvert R. McMahon
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